

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 58, "School Breakfast and Lunch Program," Iowa Administrative Code.

2008 Iowa Acts, Senate File 2425, division XI, created the "Healthy Kids Act." Specifically, these proposed rules implement sections 140 and 141 of the legislation and their mandate of nutritional content standards for foods and beverages sold or provided on school grounds during the school day. The first four items are amendments necessary to accommodate a new division of rules within Chapter 58. Item 5 creates the rules that establish the nutritional content standards for affected FOODSs and beverages, and establishes the scope of these rules.

Notice of Intended Action was published in the January 14, 2009, Iowa Administrative Bulletin as ARC #7503B. A public hearing was held via the Iowa Communications Network (ICN) on February 3, 2009, and public comments were allowed until close of business on that same date. Approximately 100 persons attended the public hearing; 21 of those present at the public hearing spoke. In addition, 85 written comments were received.

The majority of those commenting raised concerns about the need for more time to make adjustments (education of students, parents, and vendors); the need for a definition of regulated fundraising; a desire that the school day be defined more expansively; and the fact that no yogurt meeting the standards was available on the market. Other concerns raised were regarding the need for clarity regarding the fiber/whole grain standard; allowing or not allowing the use of non-nutritive sweeteners; and the desire for secondary students to have more choices.

As a result of public comment, the following changes were made:

- Yogurt is unrestricted
- Implementation time is now July 1, 2010 except as noted in the charts in rule 58.11
- A definition of "regulated fundraising" is added
- The fiber/whole grain standard has been clarified
- Secondary students have fewer restrictions than elementary students

No definition of school day was added to these rules, and no standard was made more strict.

An agencywide waiver provision is provided in 281—Chapter 4.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2425, sections 140 and 141.

These amendments shall become effective July 1, 2010.

The following amendments are adopted.

ITEM 1. Amend **281—Chapter 58**, title, as follows:

SCHOOL BREAKFAST AND LUNCH PROGRAM;
NUTRITIONAL CONTENT STANDARDS FOR OTHER FOODS AND BEVERAGES

ITEM 2. Amend rule 281—58.1(283A) as follows:

281—58.1(283A, 256) Authority of state department. Iowa Code chapter 283A authorizes the department of education to administer the school breakfast and lunch programs in the public and nonpublic schools of the state. 2008 Iowa Acts, Senate File 2425, sections 140 and 141, authorize the state board of education to establish nutritional content standards for foods and beverages sold or provided on school grounds during the school day.

ITEM 3. Amend **281—Chapter 58** by adding the following new division title to precede rule 281—58.2(283A):

DIVISION I
SCHOOL BREAKFAST AND LUNCH PROGRAM

ITEM 4. Amend rule **281—58.2(283A)**, introductory paragraph, as follows:
281—58.2(283A) Definitions. For the purposes of this ~~chapter~~ division, the following definitions apply:

ITEM 5. Amend **281—Chapter 58** by adopting new division II, title, as follows:

DIVISION II
NUTRITIONAL CONTENT STANDARDS, OTHER FOODS AND BEVERAGES

ITEM 6. Adopt the following new rules 281—58.9(256) to 281—58.11(256) in division II:

281—58.9(256) Definitions. For the purposes of this division, the following definitions apply:

“A la carte FOODS sales” means foods or beverages offered for sale by the school as part of the school’s food service program during the time the reimbursable school breakfast or lunch is served and that is not part of the reimbursable breakfast or lunch.

“Regulated fundraising” means the sale of foods or beverages on school property targeted primarily to PK-12 students by or through other PK-12 students, student groups, school organizations, or through on-campus school stores.

“School” means a school district or accredited nonpublic school.

“School breakfast program or school lunch program” means a program under which breakfasts and lunches or lunches are served by any school in the state of Iowa on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.

281—58.10(256) Scope. The rules in this division regulate the nutritional content of foods and beverages sold or provided on the school grounds of any school during the school day, including foods and beverages sold via vending machines, foods and beverages sold as *a la carte* items, and foods and beverages sold as part of regulated fundraising. These rules do not regulate the nutritional content of foods or beverages provided through a school breakfast program or school lunch program, sold as a part of other fundraising events, sold at concession stands, provided by parents, other volunteers, or students for class events, or provided by staff for consumption by staff or students. The board of directors of a public school district or the authorities in charge of an accredited nonpublic school may, but are not required to, prescribe reasonable rules for their staff, volunteers, students, and parents, guardians, or custodians of students to adhere to regarding foods and beverages provided on school grounds by staff, volunteers, students, and parents, guardians, or custodians of students.

281—58.11(256) Nutritional content standards.

Foods Table

Nutrient	A la Carte, Vending, and Regulated Fundraising Items
Calories	<div style="text-align: center;"> \leq NSLP entree items* OR \leq 400 calories per entrée item \leq NSLP sides* OR \leq 200 calories </div>

Sodium	\leq NSLP entrée items* OR \leq 600 mg per entrée item [\leq 480 mg/serving entrees (2014)] \leq NSLP side* OR \leq 400 mg/serving sides [\leq 200 mg/serving sides (2014)]
Saturated fat	\leq 10% calories (excluding reduced fat cheese)
Trans fat	\leq 0.5 gm/serving
Total fat	\leq 35% calories (excluding nuts, seeds, nut butters and reduced fat cheese)
Sugar	\leq 35% calories (excluding fruits and yogurts)
Dietary fiber/ whole grain	50% of grains offered must be whole grain

*NSLP (National School Lunch Program) menu items offered in the same portion size and frequency per week as they appear on the NSLP menu.

Beverages Table

Beverage	A la Carte, Vending, and Regulated Fundraising Items
Milk	Low/nonfat regular Low/nonfat flavored no nonnutritive sweeteners In addition: \leq 27 gm sugar/8 oz (2014) \leq 24 gm sugar/8 oz (2017) \leq 22 gm sugar/8 oz (2020)
100% Fruit/Vegetable Juice	No added sweeteners
Water	No added nonnutritive sweeteners
Sports Drinks, Flavored Water	None to be made available to elementary students during the school day as vending machine, <i>a la carte</i> , or regulated fundraising items

Caffeinated Beverages	None are to be made available to students in elementary grades during the school day as vending machine, <i>a la carte</i> , or regulated fundraising items, with the exception of beverages that contain trace amounts of naturally occurring caffeine-related substances (e.g., chocolate milk)
Sodas/ Carbonated Beverages	None are to be made available to any students during the school day as vending machine, <i>a la carte</i> , or regulated fundraising items

In addition to compliance with the above tables, schools and school districts that offer *a la carte*, vending, and regulated fundraising items shall ensure that those offerings include at least two fruits or non-fried vegetables, with no more than one being a juice option.

ITEM 7. Amend **281—Chapter 58**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 283A and 2008 Iowa Acts, Senate File 2425, sections 140 and 141.